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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,145	04/01/2004	Steven Charles Mathews	6879/71806	9011

7590 06/05/2006

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EXAMINER

NGUYEN, HUONG Q

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/816,145	MATHEWS, STEVEN CHARLES	
	Examiner	Art Unit	
	Helen Nguyen	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/04/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of **Group II (Claims 8-13)** in the reply filed on 4/24/2006 is acknowledged. The traversal is on the ground(s) that the inventions of Groups I-III are not distinct and examination of all groups would not be a burden. This is not found persuasive because the separate inventions of an apparatus for monitoring mobility (Group I), a method of monitoring time (Group II), and a computer storage medium (Group III) are found distinct as claimed. This is evidenced by the practice of the apparatus of Group I by another method, such as the detection of applied pressure without necessitating monitoring of time; the separate utility of subcombination Group I in relation to subcombination Group III such as detection of pressure without monitoring of time; and the process of Group II practiced by hand, without requiring the use of the invention of Group III. Regarding applicant's argument that a search of all inventions would not constitute a burden, it is noted that at least one group has separate status in the art due to classification in a different class and subclass and the different claimed structure of at least one group in relation to the other together would require a separate and different search that would constitute a burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. **Claims 1-7 and 14-18** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/24/2006.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 8/04/2005 is/are acknowledged.

The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

4. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. This is in refers to the references listed on p.1-2 of the specification but not listed on the submitted IDS.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 8, 10-13** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schmidt et al (US Pat No. 6030351).

7. In regards to **Claim 8**, Schmidt et al disclose a method for monitoring a length of time that a person has been immobile, comprising:

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resetting a control unit, referred to as "microcontroller" (200) (Col.6, line 22-25), which is done inherently prior to the start of the system, and also evidenced by the disclosure of resetting the system once certain criteria have been met (Col.10, line 22-24);

detecting whether a pressure sensor (10) is activated (Col.9, line 57-60);

setting a first timer to a predetermined first time period, referred to as "maximum pressure duration" (Col.9, line 13-16);

activating a warning signal or "relief alert" in the form of a "buzzer" (208) or vibrator (40) if the pressure sensor remains activated during the entire first time period (Col.9, line 60-64).

8. In regards to **Claim 10**, Schmidt et al disclose the method is implemented on a stand alone device, a mobile phone, a personal digital assistant, or on a laptop or desktop computer, in the instant case, implemented on a personal computer (Col.4, line 66-67). It is also noted that said control unit (200) is inherently found in stand alone devices, mobile phones, laptops and desktop computers.

9. In regards to **Claim 11**, Schmidt et al disclose setting a second timer to a second predetermined time period, referred to as "duration of pressure relief," when the pressure sensor (10) is deactivated or the patient initiates "pressure relief" (Col.9, line 64-67).

10. In regards to **Claim 12**, Schmidt et al disclose the first timer corresponding to "pressure position" or "maximum pressure duration" is reset if the pressure sensor is deactivated for a

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period of time greater than or equal to the second predetermined time period or “pressure relief duration” (Col.10, line 1-4, 24-27).

11. In regards to **Claim 13**, Schmidt et al disclose resetting the first timer corresponding to “maximum pressure duration” if the pressure sensor is deactivated before the second time period or “pressure relief duration” elapses, wherein the first timer is reset if a “relief continue prompt” is issued, wherein said relief continue prompt is only issued if the minimum pressure relief duration is not met (Col.10, line 5-7, 12-14).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al in view of Katz (US Pat No. 5643331). Schmidt et al disclose a method of monitoring the length of time a person has been immobile but do not explicitly disclose said method used to prevent deep vein thrombosis. Katz discloses that “the main cause of DVT is venous stasis, i.e., the lack of effective venous blood flow from the calves due to extended periods of immobilization” (Col.1, line 29-31). From this, it would logically flow that to preclude such immobilization would be an effective method to prevent deep vein thrombosis. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the time monitoring method

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of Schmidt et al to prevent deep vein thrombosis, as taught by Katz, because such method targets the main cause of DVT and thus would be highly effective.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kress (US Pat No. 4554930), Malone (US Pat No. 6014346), Scanlon (US Pat No. 5684460), Smith et al (US Pat No. 6646556), and Tao (US Pat No. 4862144) all disclose patient monitoring systems involving pressure sensing mechanisms and timers.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Nguyen whose telephone number is 571-272-8340. The examiner can normally be reached on Monday - Friday, 8 am - 5 pm.

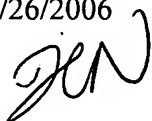
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HQN

5/26/2006



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